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STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

June 9, 2006

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 97HD-652

Hawaii

Approval in Principle of a Proposed Acquisition of Private Lands and Set Aside to Department of Land and Natural Resources, Division of State Parks for a Heiau Protection and Preservation Buffer Area, Kukuipahu, North Kohala, Hawaii, Tax Map Key: (3) 5-6-001:075 por.

APPLICANT AGENCY:

Department of Land and Natural Resources, Division of State Parks.

PRIVATE LANDOWNER:

Surety Kohala Corporation, a domestic profit corporation, whose mailing address is P.O. Box 249, Hawi, Hawaii 96719.

LEGAL REFERENCE:

Sections 107-10, 171-11 and 171-30, Hawaii Revised Statutes, as amended.

LOCATION:

Privately-owned lands of Surety Kohala Corporation situated at Kukuipahu, North Kohala, Hawaii, identified by Tax Map Key: (3) 5-6-001:075 por., as shown on the attached map labeled Exhibit A.

AREA:

7.003 acres, more or less.

ZONING:

State Land Use District: Agricultural
County of Hawaii CZO: A-600a, Agricultural

CURRENT USE:

Vacant and unencumbered.

CONSIDERATION:

None. Private landowner will convey the subject lands gratis.

PURPOSE:

To provide a protection and preservation buffer area around the State-owned Kukuipahu Heiau State Historic Site, one of three sites that comprise the Kohala Historical Sites State Monument.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

This action before the Board involves a dedication of land that does not require the use of State funds to acquire land. Therefore, this action is exempt from the provisions of Chapter 343, HRS, relating to environmental impact statements. Inasmuch as Chapter 343 environmental requirements apply to Applicant's use of the lands, Applicant shall be responsible for compliance with Chapter 343, HRS, as amended.

APPLICANT AGENCY REQUIREMENTS:

Applicant agency shall be required to:

- 1) Obtain a title report for the privately-owned property at Applicant's own cost and subject to review and approval by the Department and the Department of the Attorney General; and
- 2) Pay for and conduct a Phase I environmental site assessment and, if this Phase I identifies the potential for hazardous materials release or the presence of hazardous materials, conduct a Phase II environmental sampling and analysis plan and perform any and all remediation, abatement and disposal as may be warranted and as satisfactory to the standards required by the Federal Environmental Protection Agency and/or the State Department of Health, and to the satisfaction of the Department.

PRIVATE LANDOWNER REQUIREMENTS:

The private landowner shall be required to provide survey maps and descriptions for the privately-owned property according to State DAGS standards and at no cost to the State.

REMARKS:

The Department of Land and Natural Resources, Division of State Parks (State Parks) is requesting the Board of Land and Natural Resources (BLNR) to approve in principle the proposed acquisition and set aside of an approximate 7.003-acre site in North Kohala, Hawaii. The subject site is identified as TMK (3) 5-6-01:75 por. as generally shown on the attached Exhibit A. Subject to BLNR

approval, the site will be used by State Parks as a protection and preservation buffer area for Kukuipahu Heiau (Kukuipahu).

Pursuant to BLNR's approval on January 8, 1988 under agenda item F-4, the Board acquired 3.056 acres of land under and around the Kukuipahu Heiau from Kohala Corporation via Land Office Deed S-27,656. This 3.056-acre site, currently identified as TMK (3) 5-6-01:75 por. (Exhibit A) is set aside to State Parks by Executive Order 3388.

Subsequently, Act 166, Session Laws of Hawaii 1992, sought to protect a cluster of historical sites in North Kohala, including the State-owned Kukuipahu site which is currently listed on the National Register of Historic Places and is considered to be among the four most important heiau in North Kohala. Furthermore, this Act mandated the State acquire land surrounding these individual sites to provide for adequate preservation and protection buffers.

To comply with the intent of Act 166, Surety Kohala Corporation (formerly known as Chalon International of Hawaii, Inc.) completed the subdivision of the subject 7.003-acre site, which abuts Kukuipahu on three sides. Consolidation of the 7.003-acre site with the State's Kukuipahu property was approved by the County of Hawaii under Subdivision No. 6827, resulting in a 10.059-acre site identified as Lot B-1 on the attached consolidation resubdivision map (Exhibit B).

Notwithstanding the above, the fee interest in the 7.003-acre subject site has not been conveyed from Surety Kohala Corporation (Surety) to the State.

Considering the significance of Kukuipahu, State Parks has indicated the importance of acquiring the 7.003-acre buffer area to protect Kukuipahu from proposed residential development and preserve its historical and cultural setting.

Surety Kohala Corporation (Surety) has agreed to dedicate gratis the 7.003-acre subject site to the State, subject to approval by BLNR and the Department of the Attorney General. However, Surety has raised concerns with certain language in the State's standard Warranty Deed.

Considering Surety's concerns, staff opines a thorough review of all necessary due diligence should be completed prior to making further recommendations to the Board. Subject to BLNR's approval in principle, State Parks has agreed to pay for the required title report and Phase I Environmental Site Assessment.

Comments regarding the proposed land acquisition were solicited from Department of Hawaiian Home Lands, DLNR-Historic Preservation, the Office of Hawaiian Affairs, and County of Hawaii. No objections were received. Moreover, Office of

Hawaiian Affairs has indicated support for this initiative.

RECOMMENDATION: That the Board:

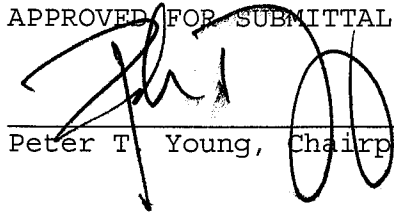
1. Approve in principle the above-described land acquisition between the State of Hawaii and the private land owner under the terms and conditions cited above, which are by this reference incorporated herein, provided that the results of the due diligence and details of the proposed acquisition shall be submitted to the Board for final approval prior to execution, and shall remain subject to the review and approval by the Department of the Attorney General.
2. Approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands to Department of Land and Natural Resources, Division of State Parks, under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
 - A. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
 - B. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;
 - C. Review and approval by the Department of the Attorney General; and
 - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Gavin Chun
Project Development Specialist

APPROVED FOR SUBMITTAL:



Peter T. Young, Chairperson

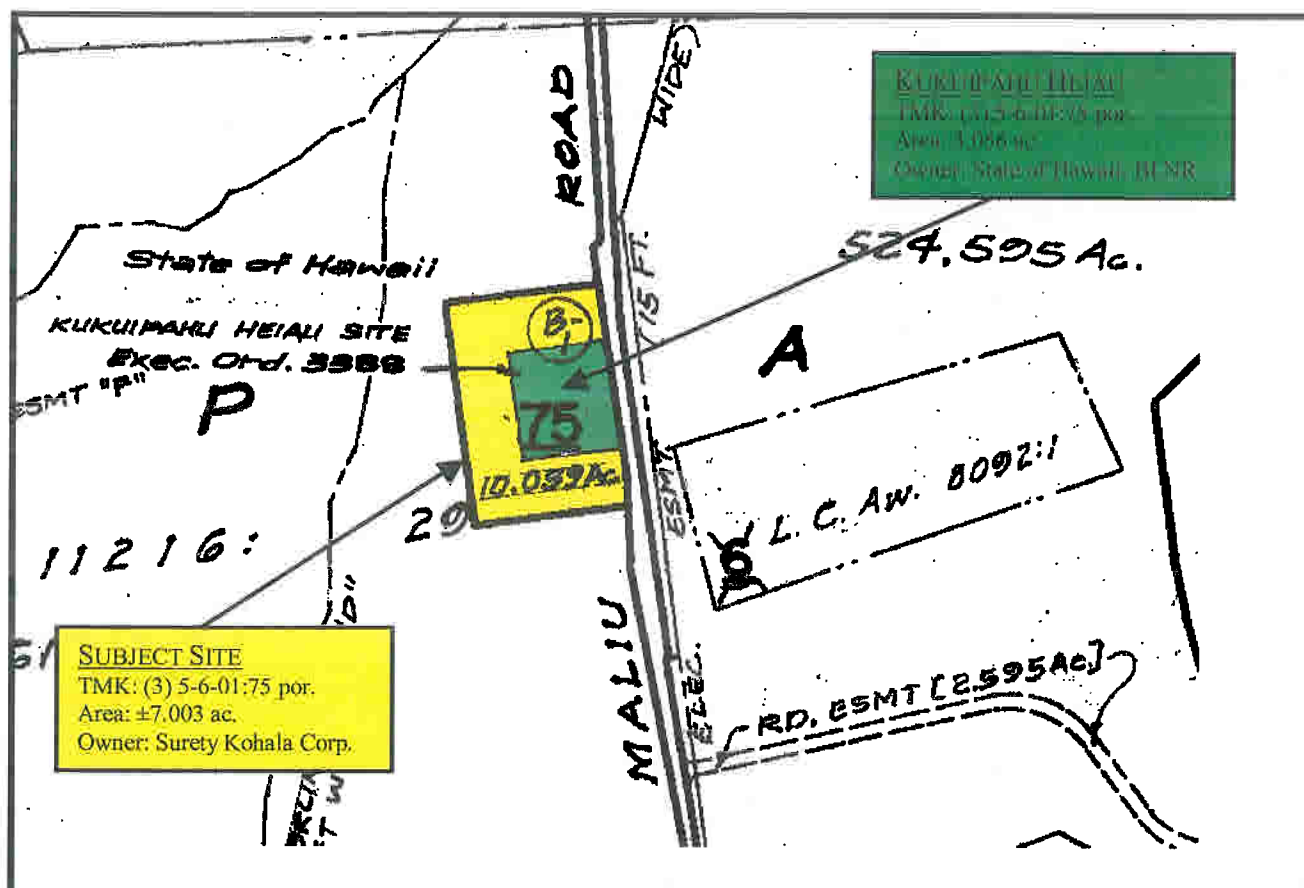
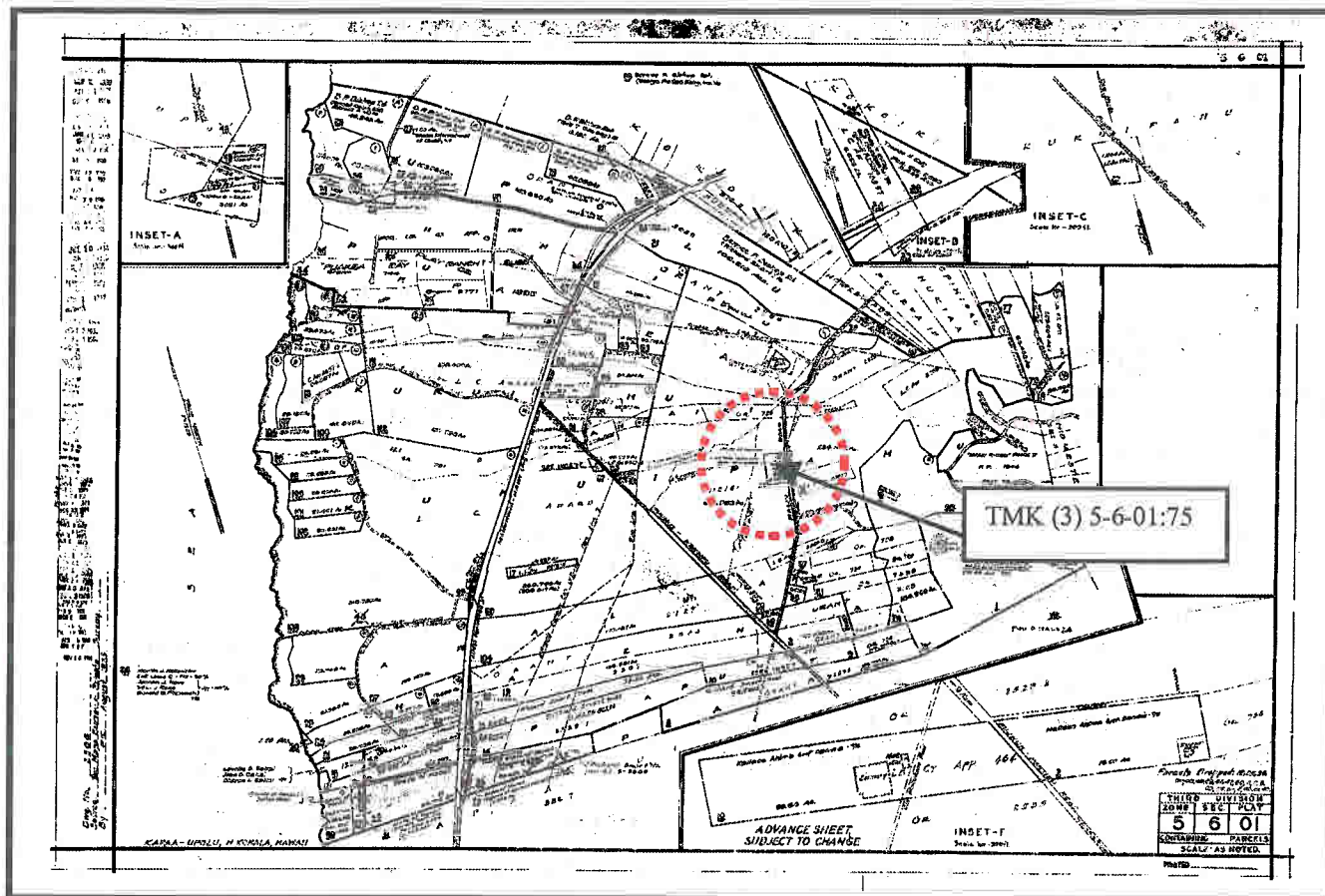


EXHIBIT "A"

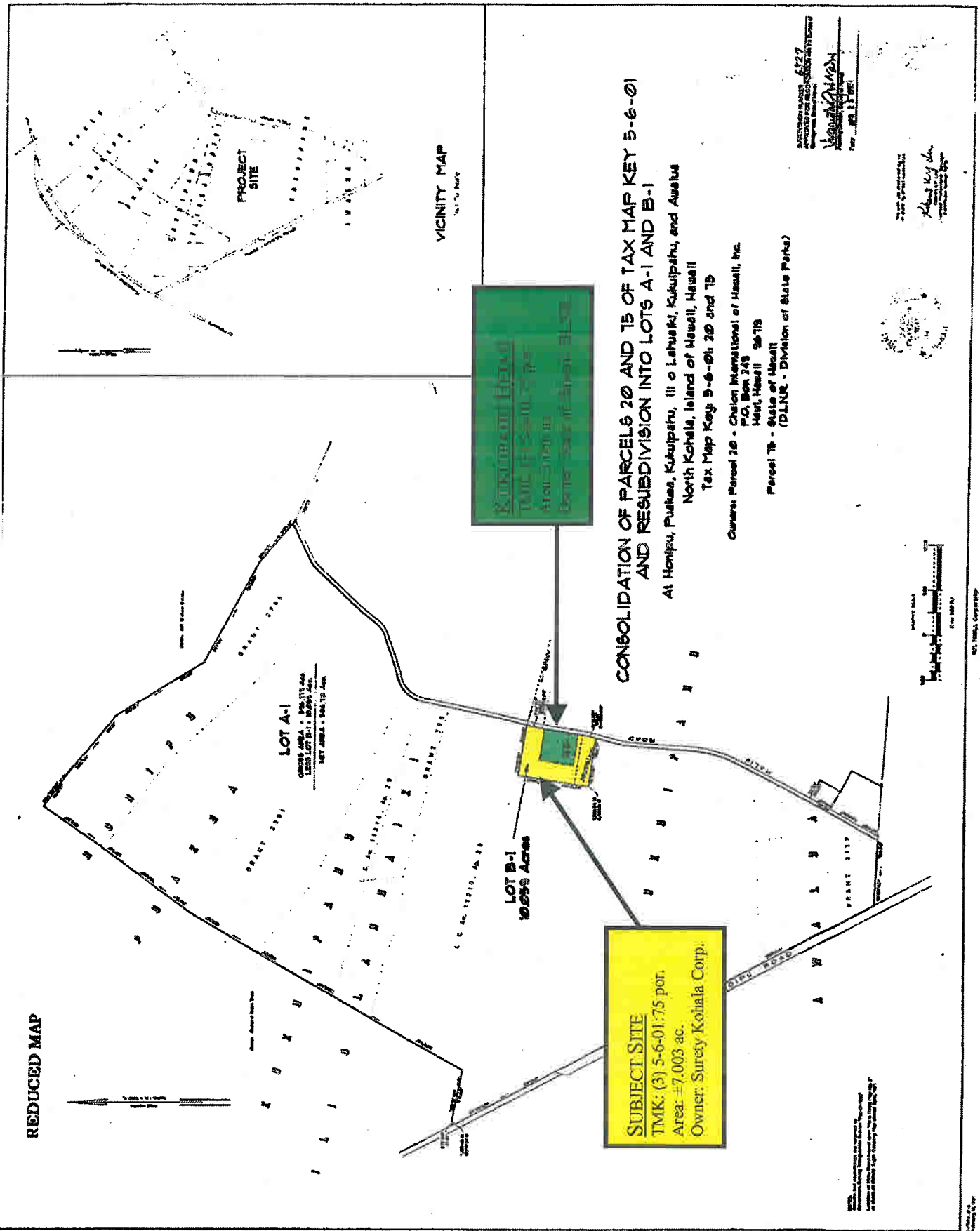


EXHIBIT "B"